

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT NO.2006/LHR/IT/2022

Dated:26.05.2022*RO Lahore

Muslim Global Relief (MGR),
Apartment No.202, Plaza No.232/1-B, ... Complainant
Sector-C Commercial, Opp Grand Mosque,
Bahria Town, Lahore.

Versus

The Secretary,
Revenue Division,
Islamabad. ... Respondent

Dealing Officer : Dr. Tariq Mahmood Khan, Advisor
Appraisal by : Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representative : (i). Rana M. Khurram Rafique, Advocate
(ii). Rana M. Umer Rafique, Advocate
Departmental Representative : Mr. Akhtar Abbas, Addl CIR CTO Lahore

FINDINGS / RECOMMENDATIONS

The above-mentioned complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against alleged illegal rejection of Complainant's application dated 26.12.2019 filed u/s 2(36) of the Income Tax Ordinance, 2001 (the Ordinance) after the delay of 840 days.

2. Brief facts of the case are that the Complainant filed application u/s 2(36)(c) of the Ordinance dated 26.12.2019 seeking approval for Non-Profit Organization. The Deptt rejected the Complainant's application vide order dated 21.04.2022 due to absence of supporting documents. The Complainant agitated that as per Rule 215 of the Income Tax Rules, 2002, Deptt was required to process the application within 60 days, but inordinate delay on the part of the Deptt in processing of application constitutes maladministration, hence this complaint.

3. The complaint was sent for comments to the Secretary, Revenue Division, in terms of Section 10(4) of the FTO Ordinance read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. In response thereto, the Deptt submitted parawise comments vide letter dated 11.06.2022 contending that Complainant's application dated 26.12.2019 was rejected after fulfilling due procedure of law and the Complainant has right of appeal before CCIR under Rules 218 of the Income Tax Rules, 2002 against the rejection of his application.

4. AR of the Complainant filed rejoinder rebutting Dept'l comments and reiterating his earlier stance taken in the complaint.

5. During hearing, AR and DR reiterated their respective stance taken in the complaint and parawise comments.

6. Both sides heard and available record perused.

FINDINGS:

7. Perusal of the record indicates following glaring instances of arbitrariness, departure from established practice & procedure, neglect, inattention and ineptitude demonstrated by the department in handling of instant case;

- P*
- i. Department took **840 days** in rejection of complainant's application u/s 2(36)(c) of the Ordinance dated 26.12.2019 seeking approval for Non-Profit Organization. Under Rule 215 of Income Tax Rules, 2002 Commissioner is obligated to finalize the application within two months from the date of receipt.
 - ii. The Deptt rejected the Complainant's application vide order dated 21.04.2022 quoting absence of supporting documents, but the 09 lines summary impugned order even doesn't specify the alleged missing details/documents.
 - iii. Solitary notice dated 6th December, 2021, issued by the department prior to rejection seeking compliance on 13th December, 2021 granted 04 working days to the complainant for desired compliance. FBR's standing instructions mandate at least 15 days' time for compliance.

- iv. On one hand department was in such hurry that it gave 04 working days to the complainant but on the other it took 840 days in passing a sketchy, inconclusive and arbitrary order rejecting the application.
- v. Under Rule 213 refusal has to be based on specific noncompliance areas, clearly enlisted in Rule 213(1) and Rule 213(2). Similarly, the said order doesn't contain statement of reasons for refusal as mandated under Rule 213(4).
- vi. Though as per Rule 218 of the Income Tax Rules, 2002, said rejection is appealable before CCIR yet FBR's higher hierarchy will have to address this highhandedness prevalent in the field formations.

In view of above the instant case reflects glaring instances of maladministration in terms of section 2(3)(i)(a)(b) and (ii) of FTO Ordinance, 2000.

RECOMMENDATIONS:

8. FBR is directed to-
- ensure that concerned CCIR reviews the case in appeal under Rule 218 and address the infirmities pointed out above;
 - advise Commissioners-IR to strictly follow the Rules while handling such cases; and
 - report compliance within 45 days.

(Dr. Asif Mahmood Jah)
(Hilal-i-Imtiaz) (Sitara-i-Imtiaz)
Federal Tax Ombudsman

Dated: 19.8.2022

Approved for reporting

Certified to be True Copy

Registrar
FTO Secretariat
Islamabad